

Appl. No. 10/751,132
Amdt. Dated 11/16/06
Reply to Office Action of 10/16/2006

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REMARKS

This is in response to the Office Actions mailed 07/28/2006 and 10/16/06. In the 07/28/06 Office Action, claims 1-49 were cited as being subject to a restriction requirement and an election requirement. Reexamination and reconsideration of this case is respectfully requested in view of the amendments made herein and the following remarks.

Claim 23 has been amended. No claims have been canceled. Accordingly, claims 1-49 are now at issue in the patent application. Of those at issue, claims 1, 12, 23, and 33 are independent claims. Applicant believes that no new matter has been added by this response.

I) Restriction Requirement

On page 2 of the 07/28/06 Office Action, claims 1-49 were made subject to a first restriction requirement under 35 USC 121 based on search classification. Claims 1-49 were restricted to the following two groups of claims:

I) Claims 1-22 and 33-47, drawn to an integrated circuit, classified in class 324, subclass 763.

II) Claims 23-32 and 48-49, drawn to a method, classified in class 324, subclass 763.

In response, Applicant provisionally elects to go forward with claims 1-22 and 33-47, drawn to an integrated circuit, classified in class 324, subclass 763 without traverse as it has the largest number of claims paid for.

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II) Election Requirement

On page 3 of the 07/28/06 Office Action, claims 1-49 were further made subject to a election of the species requirement under 35 USC 121. The application was separated into three species.

The Office Actions states: "This application contains claims directed to the following patentably distinct species:

- (a) The species detailed in Applicant's specification at page 5, lines 6-17;
- (b) The species detailed in Applicant's specification at page 5, line 18 to page 6, line 5;
- (c) The species detailed in Applicant's specification at page 6, lines 17-32."

In response, Applicant provisionally elects to go forward with species (a) and respectfully traverses the election requirement for the following reasons:

The embodiments described on Applicant's specification from page 5, line 6 through page 6, line 32 were based on Applicant's claims as filed. Applicant has since amended the claims such that these embodiments described in the specification may not accurately represent what is currently claimed.

The Office Action did not restrict the species to respective figures as is ordinarily the case. Accordingly, it is difficult to determine what claims read on the species. Thus, Applicant respectfully submits that Claims 1-49 read on Species (a).

The Office Action states "Currently, no claim appears to be generic." Applicant respectfully disagrees. Applicant respectfully submits that at least independent claims 1, 12, 23, and 33 are generic.

In addition, the 10/16/06 Office Action states that Applicant's election of species above was not fully responsive to the prior Office Action (of 7/28/06). The 10/16/06 Office Action

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states: "Although Applicants elected species (a) and a listing of claims (i.e., claims 1-49) that are readable on the elected species (a); however, the listing of claims is conflicted with the first election that contains only claims 1-22 and 33-47 (i.e., group 1)." However, Applicant is unaware of any requirement that a listing of the claims for an elected species must exactly correspond with an elected claim group from a restriction requirement. Applicant respectfully requests the Examiner to inform Applicant if such a requirement exists and also the citation from the CFR or MPEP of this requirement. Presently, Applicant can find no such requirement anywhere in the CFR or MPEP. In addition, as species (a) reads on claims 1-49, then species (a) must necessarily also read on claims 1-22 and 33-47, as these claims are a part of claims 1-49. As such, the listing of claims for species (a) does not, in fact, conflict with group 1.

For the foregoing reasons, Applicant respectfully request reconsideration of this restriction requirement.

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CONCLUSION

A first examination as to the merits of claims 1-49 is respectfully requested. Allowance of the claims at an early date is solicited.

As this is the 5th Office Action in the past year setting forth a restriction requirement and/or an election of species, the Examiner is respectfully invited to contact Applicant's undersigned counsel by telephone at (303) 740-1980 to expedite the prosecution of this case should there be any unresolved matters remaining. Applicant is eager to move forward in the prosecution and potential allowance of this case.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such deposit account.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: November 16, 2006

By


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